

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
3                   ABERDEEN DIVISION

CHRISTOPHER C. DIGGS

PLAINTIFF

4                   V.                   CIVIL ACTION NO. 1:15CV186-SA-DAS  
5                   THE BURLINGTON NORTHERN AND  
6                   SANTA FE RAILWAY COMPANY

DEFENDANT

8                   DEPOSITION OF CHRISTOPHER DIGGS

9  
10           Taken at the instance of the Defendant at Waide &  
11   Associates, P.A., 332 North Spring Street, Tupelo,  
12   Mississippi 38802, on Thursday, September 8, 2016,  
13           beginning at 10:04 a.m.

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16           NIKKI L. LLOYD, CCR #1870  
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20  
21  
22  
23  
24

25           Job No. CS2360764

1 APPEARANCES:

2  
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8 COUNSEL FOR PLAINTIFF

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14 COUNSEL FOR DEFENDANT

1           Q     -- I think I understand correctly that you say  
2 they did this, that is not returning you to active duty,  
3 because of your race.

4           A     Yes, sir.

5           Q     And you also say they did it because of your  
6 disability; is that correct?

7           A     Yes, sir.

8           Q     And we'll get into the specifics of the  
9 disability later.

10           Are there any other bad motives you think  
11 caused BNSF not to grant, so far, your request to return  
12 to active duty?

13          A     No, sir, not that I know of.

14          Q     All right. Now, you're aware, aren't you,  
15 that the doctor at BNSF who is evaluating your request  
16 for active duty is named Dr. Laura Gillis?

17          A     Yes. Yes, sir.

18          Q     All right. Have you ever met her?

19          A     No, sir.

20          Q     Is there anybody else who you believe is  
21 actually making the decision either for or along with  
22 Dr. Gillis?

23          A     Make the decision?

24          Q     To -- either to deem you medically fit or not  
25 deem you medically fit to return to active duty.

1 signature on it or --

2 MR. CRUTCHER: Yes, not -- not his lawyer's,  
3 not somebody else for you.

4 MR. WOODRUFF: Lawyers, doctors --

5 Q (BY MR. CRUTCHER) That you personally, Chris  
6 Diggs, communicating directly, personally to Dr. Gillis.  
7 Am I missing something that you're aware of?

8 A I think -- I'm getting confused, because I  
9 received documentation from BNSF from the medical  
10 department about returning to work.

11 Q Right.

12 A And I sent it back, so I think it was to  
13 Dr. Gillis' office.

14 Q Right.

15 A But I can't remember if it was specifically to  
16 Dr. Gillis.

17 Q Right. That's what I'm -- that's what I'm  
18 interested in, something you addressed to Dr. Gillis  
19 personally.

20 A I can't remember. I just don't recall.

21 Q All right. Behind Tab 5 in your binder, I've  
22 copied a number of communications from Dr. Gillis  
23 addressed personally to you.

24 A Yes.

25 (Exhibit 5 marked for identification.)

1           Q       (BY MR. CRUTCHER) Would you look at those  
2       please, and tell me if you know if I missed any. Again,  
3       these are things that she addressed personally to you,  
4       not to your lawyers, not to your physicians.

5           A       Yes, sir. I -- I -- I can recall this. This  
6       is what I was talking about.

7           Q       Okay. Do you know if I've -- I've left out  
8       any communication, written communications, that  
9       Dr. Gillis addressed personally to you from this  
10      collection here behind Tab 5?

11          A       No, sir, not that I know of.

12          Q       Now, I think I can cut this next one off.  
13      You're aware that your lawyers have addressed  
14      communications to Dr. Gillis, right?

15          A       Yes, sir.

16          Q       But I'll bet you couldn't tell me if any stack  
17      of them was all of them, right?

18          A       I don't understand.

19          Q       Have you seen every one of them or do you  
20      think you've seen every one of them that your lawyers  
21      have sent Dr. Gillis?

22          A       Yes, sir.

23          Q       You do?

24          A       I think I have.

25          Q       Okay. Then let's look at Tab 6.

1           Q     And you appealed the determination, but you  
2     lost that case for railroad retirement benefits?

3           A     Yes, sir.

4           Q     And I'm trying to cut through a lot of paper  
5     here. But you recall that the determination in that  
6     Railroad Retirement Board case was that you were  
7     disabled from a job that you had done at BNSF but not  
8     from all employment, correct?

9           A     Yes, sir, right.

10          Q     So would you look behind Tab 20, please.

11               MR. WOODRUFF: I'm sorry. What exhibit?

12               MR. CRUTCHER: Tab 20.

13               MR. WOODRUFF: 20?

14               (Exhibit 20 marked for identification.)

15          Q     (BY MR. CRUTCHER) Uh-huh. Do you recall  
16     having seen this before?

17          A     Yes, sir.

18          Q     Okay. This is the Railroad Retirement Board  
19     decision that deemed you disabled from BNSF work, but  
20     not all work, correct?

21          A     Yes, sir.

22          Q     Did you ever apply for Social Security  
23     disability income?

24          A     No, sir.

25          Q     Okay. Do you know your -- strike that. I'm

1 surgery?

2 A No, I don't -- I hate to -- I don't have the  
3 exact date.

4 Q Do you remember if it was after the surgery  
5 that you asked Dr. Boles to send a note to BNSF saying  
6 you could return to work?

7 A I think it was after the surgery that I asked  
8 Dr. Boles to send a note that I could do the job that I  
9 was doing in Amory, Mississippi.

10 Q Okay. Now, look behind Tab 22, please, and  
11 tell me if you remember getting a letter like this from  
12 BNSF -- except, obviously, being signed by the sender --  
13 after you asked Dr. Boles to send that note to BNSF.

14 A Yes, sir.

15 Q Okay. Had any physicians told you that you  
16 were medically fit to return to your former job at BNSF  
17 between July 2010 and July 2014?

18 MR. WOODRUFF: What year?

19 (Exhibit 22 marked for identification.)

20 Q (BY MR. CRUTCHER) My question is: Had any  
21 physicians treating you told you that you were medically  
22 fit to return to your former job at BNSF between  
23 July 2010 and July 2014?

24 A No, sir.

25 Q Who is the first physician to tell you that